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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/750,534

12/31/2003

Peter A. Davison

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EXAMINER

EWALD, MARIA VERONICA

ART UNIT

PAPER NUMBER

1722

MAIL DATE

DELIVERY MODE

04/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

6

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/750,534

Applicant(s)

DAVISON ET AL.

Examiner

Maria Veronica D. Ewald

Art Unit

1722

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-6, 8, 11-12, 23-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


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SUPERVISORY PATENT EXAMINER
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Response to Arguments

13. Applicant's arguments filed March 2, 2007 have been fully considered but they are not persuasive. With respect to the rejection of independent claim 1 over the reference of DePuydt, et al. (U.S. 6,030,556), Applicant has argued that DePuydt, et al. do not teach adherable and non-adherable properties of the dielectric and cap layers; however, Examiner disagrees. DePuydt, et al. teach a substrate, which can be made of metal (column 7, lines 1 – 10), on which a dielectric layer is placed (item 44 – figure 4), of which the dielectric layer also serves to promote adhesion between the substrate and the patterning material (column 7, lines 40 – 45) and thus, the dielectric or first coating provides an *adherable surface*. The second coating over the first coating is the patterning material, which is comprised of the topmost layer or cap layer (column 7, lines 59 – 65). Even though DePuydt, et al. has stated that the dielectric layer and the cap layer *can be made of materials that are the same or materials derived from the same list, it does not imply that the material chosen for the layers have to be identical to each other*. Furthermore, because the reference is teaching the fabrication of a stamper, it is inherent that the cap layer of the stamper has characteristics that do not allow it to adhere to the disc being stamped.

With respect to the reference of Ohman, et al. (6,454,970) and the rejection of claims 1 and 11, Examiner clarifies the structure of Ohman, et al. Ohman, et al. teach an embossing tool substrate (item 7 – figure 14), a first coating over the first major surface of the substrate, the first coating providing an adherable surface (item 41 – figure 14); and a second coating over the first coating, the second coating providing a

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non-adhesive outer surface (item 62 – figure 14). Applicant has argued that Ohman, et al. do not teach a metal substrate; however, as stated previously, the substrate *can be metal* (item 7 – figure 14; column 13, lines 25 – 30) and thus, the reference of Ohman, et al. anticipates claim 1.

With respect to Applicant's arguments regarding claims 23 – 26, Applicant has not clearly defined what the status of these claims are. In paragraph one of the remarks, Applicant has stated that these claims are pending; however, on page 6 of the remarks, Applicant has stated that claims 23 – 26 "have been deleted as Applicant does not wish to pursue these claims at this time." Claims 23 – 26 remain in the listing of claims and thus, Examiner maintains the rejection with respect to the reference of Kyminas, et al. (U.S. 4,474,920).

Conclusion


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria Veronica D. Ewald whose telephone number is 571-272-8519. The examiner can normally be reached on M-F, 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVE


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